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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DR. MEHMET OZ, et al.,

No. 09-CV-7297 (DAB)

Plaintiffs,

**ANSWER**

v.

FWM LABORATORIES, INC., et al.,

FWM.  
-----X

Defendant FWM Laboratories, Inc. ("FWM"), by its attorneys, Arnold & Porter LLP, hereby answers the Complaint of Plaintiffs Dr. Mehmet Oz, Zo Co I, LLC, OW Licensing Company, LLC, and Harpo, Inc., as follows:

**NATURE OF THE ACTION**

1. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.
2. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 2 of the Complaint as they pertain to FWM.
3. FWM denies the allegations contained in paragraph 3 of the Complaint.
4. FWM denies the allegations contained in paragraph 4 of the Complaint.

5. FWM denies the allegations contained in paragraph 5 of the Complaint.
6. FWM denies the allegations contained in paragraph 6 of the Complaint.
7. With respect to the allegations contained in paragraph 7 of the Complaint, FWM admits that this purports to be an action under the statutes and laws set forth therein, but denies that any such statutes or laws have been violated by FWM, or that Plaintiffs are entitled to the relief requested as against FWM.

#### **THE PARTIES**

8. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint.
9. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.
10. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint.
11. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.
12. FWM admits that it has offices located at the specified addresses and that it has sold the products identified. FWM denies the allegations contained in paragraph 12 of the Complaint.
13. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint.
14. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint.
15. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint.

16. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.

17. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.

18. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint.

19. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint.

20. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint.

21. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint.

22. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint.

23. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint.

24. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint.

25. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint.

26. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint.

27. FWM denies knowledge of information sufficient to form a belief as to the

truth of the allegations contained in paragraph 27 of the Complaint.

28. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint.

29. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint.

30. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint.

31. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint.

32. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint.

33. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint.

34. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Complaint.

35. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint.

36. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint.

37. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint.

38. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint.

39. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint.

40. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint.

41. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint.

42. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint.

43. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint.

44. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint.

45. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint.

46. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint.

47. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint.

48. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Complaint.

49. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint.

50. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint.

51. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the Complaint.

52. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Complaint.

53. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the Complaint.

54. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Complaint.

55. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Complaint.

56. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint.

57. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Complaint.

58. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Complaint.

59. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Complaint.

60. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Complaint.

61. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Complaint.

62. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint.

63. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint.

64. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the Complaint.

65. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Complaint.

66. FWM denies the specific allegations contained in paragraph 66 of the Complaint that it was a principal, agent, affiliate, partner, alter-ego, co-conspirator and/or that it acted in concert with any other Defendant, and that it acted within the course, scope and authority of any such relationship so that, as a result, it is jointly and severally liable for the alleged acts of the other Defendants. FWM further contends that these allegations and factual contentions were made without a reasonable inquiry under the circumstances, and have no evidentiary support. FWM further denies the remainder of the allegations contained in paragraph 66 of the Complaint.

#### **JURISDICTION AND VENUE**

67. With respect to the allegations contained in paragraph 67 of the Complaint, FWM admits that this action purports to have arisen, and that this Court is purported to have subject matter jurisdiction, under the statutes and laws set forth therein, but otherwise, FWM denies the allegations contained in paragraph 67 of the Complaint.

68. FWM denies the allegations contained in paragraph 68 of the Complaint.

**FACTUAL ALLEGATIONS**

69. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Complaint.

70. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of the Complaint.

71. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of the Complaint.

72. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint.

73. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of the Complaint.

74. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of the Complaint.

75. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Complaint.

76. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint.

77. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint.

78. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Complaint.

79. FWM denies knowledge of information sufficient to form a belief as to the



truth of the allegations contained in paragraph 79 of the Complaint.

80. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of the Complaint.

81. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Complaint.

82. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Complaint.

83. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of the Complaint.

84. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the Complaint.

85. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations concerning contained in paragraph 85 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 85 of the Complaint as they pertain to FWM.

86. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 86 of the Complaint as they pertain to FWM.

87. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 87 of the Complaint as they pertain to FWM.

88. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 88 of the Complaint as they pertain to FWM.

89. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 89 of the Complaint as they pertain to FWM.

90. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 90 of the Complaint as they pertain to FWM.

91. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the Complaint.

92. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 92 of the Complaint as they pertain to FWM.

93. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 93 of the Complaint as they pertain to FWM.

94. FWM denies knowledge of information sufficient to form a belief as to the

truth of the allegations contained in paragraph 94 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 94 of the Complaint as they pertain to FWM.

95. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 95 of the Complaint as they pertain to FWM.

96. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 96 of the Complaint as they pertain to FWM.

97. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 97 of the Complaint as they pertain to FWM.

98. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 98 of the Complaint as they pertain to FWM.

99. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 99 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 99 of the Complaint as they pertain to FWM.

100. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 100 of the Complaint as they pertain to FWM.

101. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 101 of the Complaint as they pertain to FWM.

102. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 102 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 102 of the Complaint as they pertain to FWM.

103. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 103 of the Complaint as they pertain to FWM.

104. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 104 of the Complaint as they pertain to FWM.

105. FWM denies that it is an alter-ego of any other defendant herein or that it acted in concert with any other defendant herein and, accordingly, denies the allegations of Paragraph 105 of the Complaint. FWM further contends that these allegations and factual

assertions were made without a reasonable inquiry under the circumstances, and have no evidentiary support. FWM further denies the remainder of the allegations contained in paragraph 105 of the Complaint.

106. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 106 of the Complaint as they pertain to FWM.

107. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 107 of the Complaint as they pertain to FWM.

108. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 108 of the Complaint as they pertain to FWM.

109. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 109 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 109 of the Complaint as they pertain to FWM.

110. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 110 of the Complaint as they pertain to FWM.

111. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 111 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 111 of the Complaint as they pertain to FWM.

112. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of the Complaint.

113. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 113 of the Complaint.

114. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 114 of the Complaint as they pertain to FWM.

115. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 115 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 115 of the Complaint as they pertain to FWM.

116. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 116 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 116 of the Complaint as they pertain to FWM.

117. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 117 of the Complaint as they

pertain to FWM.

118. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 118 of the Complaint as they pertain to FWM.

119. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 119 of the Complaint as they pertain to FWM.

120. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 120 of the Complaint as they pertain to FWM.

121. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 121 of the Complaint as they pertain to FWM.

122. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 of the Complaint.

123. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 123 of the Complaint as they pertain to FWM.

124. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 124 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 124 of the Complaint as they pertain to FWM.

125. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 125 of the Complaint as they pertain to FWM.

126. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 126 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 126 of the Complaint as they pertain to FWM.

127. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 127 of the Complaint as they pertain to FWM.

128. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 128 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 128 of the Complaint as they pertain to FWM.

129. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 129 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 129 of the Complaint as they



pertain to FWM.

**COUNT I**  
**(Violation of Right of Publicity and Right of Privacy, N.Y.C.R.L. §§ 50-51)**  
**(By Plaintiff Dr. Oz)**

130. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 129 above as if set forth fully herein.

131. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 131 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 131 of the Complaint as they pertain to FWM.

132. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 132 of the Complaint as they pertain to other Defendants. FWM asserts that it did not seek permission from Plaintiff Dr. Oz as alleged in Paragraph 132 of the Complaint because it did not utilize Plaintiff Dr. Oz's property as alleged. Accordingly, FWM denies the allegations contained in paragraph 132 of the Complaint as they pertain to FWM.

133. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 133 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 133 of the Complaint as they pertain to FWM.

134. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 134 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 134 of the Complaint as they pertain to FWM.

135. FWM denies knowledge of information sufficient to form a belief as to the

truth of the allegations contained in paragraph 135 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 135 of the Complaint as they pertain to FWM.

136. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 136 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 136 of the Complaint as they pertain to FWM.

**COUNT II**  
**(Violation of Right of Publicity, ILCS 1075/1 et seq.)**  
**(By Plaintiff OW)**

137. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 136 above as if set forth fully herein.

138. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 138 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 138 of the Complaint as they pertain to FWM.

139. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 139 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 139 of the Complaint as they pertain to FWM.

140. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 140 of the Complaint as they pertain to FWM.

141. FWM denies knowledge of information sufficient to form a belief as to the

truth of the allegations contained in paragraph 141 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 141 of the Complaint as they pertain to FWM.

142. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 142 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 142 of the Complaint as they pertain to FWM.

143. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 143 of the Complaint as they pertain to FWM.

144. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 144 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 144 of the Complaint as they pertain to FWM.

**COUNT III**  
**(Direct, Contributory and/or Vicarious Trademark Infringement**  
**under Section 32(1) of the Lanham Act)**  
**(By Plaintiff Harpo)**

145. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 144 above as if set forth fully herein.

146. FWM denies the specific allegation contained in paragraph 146 of the Complaint that there is an “apparent or actual partnership between Defendants and the direct infringers, giving each the authority to bind the other or exercise joint control over the products at issue.” FWM further contends that this allegation and factual contention was made without a

reasonable inquiry under the circumstances, and has no evidentiary support. As to the other allegations contained in paragraph 146 of the Complaint, FWM denies knowledge of information sufficient to form a belief as to the truth of these allegations as they pertain to other Defendants. FWM denies the allegations contained in paragraph 146 of the Complaint as they pertain to FWM.

147. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 147 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 147 of the Complaint as they pertain to FWM as they pertain to FWM.

148. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 148 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 148 of the Complaint as they pertain to FWM.

149. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 149 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 149 of the Complaint as they pertain to FWM.

150. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 150 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 150 of the Complaint as they pertain to FWM.

**COUNT IV**  
**(Trademark Dilution by Blurring and Tarnishment under**  
**Section 43(c) of the Lanham Act)**  
**(By Plaintiff Harpo)**

151. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 150 above as if set forth fully herein.

152. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 152 of the Complaint.

153. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 153 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 153 of the Complaint as they pertain to FWM.

154. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 154 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 154 of the Complaint as they pertain to FWM.

155. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 155 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 155 of the Complaint as they pertain to FWM.

156. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 156 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 156 of the Complaint as they pertain to FWMt-.

157. FWM denies knowledge of information sufficient to form a belief as to the

truth of the allegations contained in paragraph 157 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 157 of the Complaint as they pertain to FWM.

**COUNT V**  
**(Direct, Contributory and/or Vicarious Trademark Infringement**  
**under Section 32(1) of the Lanham Act)**  
**(By Plaintiff Zo Co)**

158. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 157 above as if set forth fully herein.

159. FWM denies the specific allegation contained in paragraph 159 of the Complaint that there is an “apparent or actual partnership between Defendants and the direct infringers, giving each the authority to bind the other or exercise joint control over the products at issue.” FWM further contends that this allegation and factual contention was made without a reasonable inquiry under the circumstances, and has no evidentiary support. As to the other allegations contained in paragraph 159 of the Complaint, FWM denies knowledge of information sufficient to form a belief as to the truth of these allegations as they pertain to other Defendants. FWM denies the allegations contained in paragraph 159 of the Complaint as they pertain to FWM.

160. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 160 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 160 of the Complaint as they pertain to FWM.

161. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 161 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 161 of the Complaint as they

pertain to FWM.

162. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 162 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 162 of the Complaint as they pertain to FWM.

**COUNT VI**  
**(False Designation of Origin, False Endorsement and Sponsorship and Unfair Competition**  
**under Section 43(a) of the Lanham Act)**  
**(By Plaintiffs Zo Co and Harpo)**

163. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 162 above as if set forth fully herein.

164. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 164 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 164 of the Complaint as they pertain to FWM.

165. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 165 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 165 of the Complaint as they pertain to FWM.

166. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 166 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 166 of the Complaint as they pertain to FWM.

167. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 167 of the Complaint as they pertain to other

Defendants. FWM denies the allegations contained in paragraph 167 of the Complaint as they pertain to FWM.

168. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 168 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 168 of the Complaint as they pertain to FWM.

169. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 169 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 169 of the Complaint as they pertain to FWM.

170. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 170 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 170 of the Complaint as they pertain to FWM.

**COUNT VII**  
**(Cybersquatting under the Anticybersquatting Consumer Protection Act**  
**15 U.S.C. § 1125(d)(1)(A))**  
**(By Plaintiffs Zo Co and Harpo)**

171. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 170 above as if set forth fully herein.

172. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 172 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 172 of the Complaint as they pertain to FWM.

173. FWM denies the allegations contained in paragraph 173 of the Complaint.



174. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 174 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 174 of the Complaint as they pertain to FWM.

175. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 175 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 175 of the Complaint as they pertain to FWM.

176. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 176 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 176 of the Complaint as they pertain to FWM.

177. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 177 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 177 of the Complaint as they pertain to FWM.

178. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 178 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 178 of the Complaint as they pertain to FWM.

**COUNT VII**  
**(Direct, Contributory and/or Vicarious Copyright Infringement Under the Copyright Act)**  
**(By Plaintiff Harpo)**

179. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 178 above as if set forth fully herein.

180. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 180 of the Complaint.

181. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 181 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 181 of the Complaint as they pertain to FWM.

182. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 182 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 182 of the Complaint as they pertain to FWM.

183. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 183 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 183 of the Complaint as they pertain to FWM.

184. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 184 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 184 of the Complaint as they pertain to FWM.

**COUNT IX**  
**(Common Law Unfair Competition / Unjust Enrichment)**

185. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 184 above as if set forth fully herein.

186. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 186 of the Complaint as they pertain to other

Defendants. FWM denies the allegations contained in paragraph 186 of the Complaint as they pertain to FWM.

187. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 187 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 187 of the Complaint as they pertain to FWM.

188. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 188 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 188 of the Complaint as they pertain to FWM.

189. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 189 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 189 of the Complaint as they pertain to FWM.

**COUNT X**  
**(Violation of Section 349 of New York General Business Law)**

190. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 189 above as if set forth fully herein.

191. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 191 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 191 of the Complaint as they pertain to FWM.

192. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 192 of the Complaint as they pertain to other

Defendants. FWM denies the allegations contained in paragraph 192 of the Complaint as they pertain to FWM.

193. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 193 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 193 of the Complaint as they pertain to FWM.

**COUNT XI**  
**(Violation of Section 350 of New York General Business Law)**

194. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 193 above as if set forth fully herein.

195. FWM admits that N.Y.G.B.L. Section 350 contains the language quoted by Plaintiffs in paragraph 195 of the Complaint, but states that such language constitutes only a portion of such statute.

196. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 196 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 196 of the Complaint as they pertain to FWM.

197. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 197 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 197 of the Complaint as they pertain to FWM.

198. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 198 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 198 of the Complaint as they

pertain to FWM.

199. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 199 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 199 of the Complaint as they pertain to FWM.

200. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 200 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 200 of the Complaint as they pertain to FWM.

201. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 201 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 201 of the Complaint as they pertain to FWM.

**COUNT XII**  
**(Violation of Illinois Uniform Deceptive Trade Practices Act)**  
**(By Plaintiffs OW and Harpo)**

202. FWM realleges and incorporates by reference the allegations set forth in their responses to paragraphs 1 through 201 above as if set forth fully herein.

203. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 203 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 203 of the Complaint as they pertain to FWM.

204. FWM denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in paragraph 204 of the Complaint as they pertain to other Defendants. FWM denies the allegations contained in paragraph 204 of the Complaint as they

pertain to FWM.

**FIRST AFFIRMATIVE DEFENSE**

205. The Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

206. This Court lacks personal jurisdiction over FWM.

**THIRD AFFIRMATIVE DEFENSE**

207. Venue in this action is improper as to FWM. Further, even if venue is proper, venue should be transferred for the convenience of FWM and its witnesses, in the interest of justice.

**FOURTH AFFIRMATIVE DEFENSE**

208. To the extent Plaintiffs are unable to maintain any claims in this action under the Lanham Act and/or Copyright Act and such claims are dismissed, Plaintiffs may not maintain any of the remaining claims, as this Court would lack jurisdiction over the subject matter of the remaining claims under the doctrine of pendent jurisdiction.

**FIFTH AFFIRMATIVE DEFENSE**

209. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by their failure to join all parties needed for a just adjudication of this action under Rule 19 of the Federal Rules of Civil Procedure.

**SIXTH AFFIRMATIVE DEFENSE**

210. To the extent any of the acts or conduct alleged in the Complaint relate to FWM products, such acts or conduct were not committed and/or engaged in by FWM, but were committed and/or engaged in by parties unknown to FWM at this time. Accordingly, FWM is not liable to Plaintiffs, in whole or in part, under the doctrine of contributory liability.

**SEVENTH AFFIRMATIVE DEFENSE**

211. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by the doctrine of fair use.

**EIGHTH AFFIRMATIVE DEFENSE**

212. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by the Statute of Limitations.

**NINTH AFFIRMATIVE DEFENSE**

213. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by the doctrines of laches, waiver, estoppel and/or acquiescence.

**TENTH AFFIRMATIVE DEFENSE**

214. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by Plaintiffs' failure to mitigate its damages.

**ELEVENTH AFFIRMATIVE DEFENSE**

215. Plaintiffs' claims, and prayers for relief, are barred or limited, in whole or in part, by Plaintiffs' own culpable conduct.

**TWELFTH AFFIRMATIVE DEFENSE**

216. Plaintiffs' claims, and prayers for equitable relief, are barred or limited, in whole or in part, by Plaintiffs' unclean hands.

**THIRTEENTH AFFIRMATIVE DEFENSE**

217. Upon information and belief, Plaintiffs, by their own actions, have contributed to, and are responsible, in whole or in part, for the damage and harm allegedly suffered by them, and, accordingly, their claims for relief, including damages, should be barred, limited, or reduced.

218. FWM intends to rely on any other defenses that are now or may become

available as a result of the discovery process in this action. Accordingly, FWM reserves the right to amend its Answer to assert such defenses.


WHEREFORE, FWM respectfully requests judgment against Plaintiffs as follows:

- (A) That the Complaint as against Defendant FWM be dismissed in its entirety;
- (B) Awarding Defendant FWM its costs and expenses incurred in this action, including its disbursements and reasonable attorneys' fees; and
- (C) Granting such other relief as the Court deems just and proper.

Dated: New York, New York  
December 21, 2009

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